



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes CITY COUNCIL

R. Steve Tumlin, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
G. A. (Andy) Morris, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, November 14, 2012

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Annette Lewis, Grif Chalfant, Johnny Sinclair, G. A. (Andy) Morris,
Rev. Anthony Coleman, Jim King, and Philip M. Goldstein

Also Present:

William F. Bruton, Jr. City Manager

Douglas R. Haynie City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor R. Steve Tumlin called the meeting to order at 7:01 p.m.

INVOCATION:

Council member Anthony Coleman called upon Dr. Ernest L. Easley, senior pastor of the Roswell Street Baptist Church, to give the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Tumlin asked everyone to remain standing for the pledge of allegiance.

PRESENTATIONS:

20120972

Distinguished Service Award

Presentation of Distinguished Service Award presented to (Col. Ret.) Kenneth Dollar for his long and distinguished service as Chairman of the Planning Commission.

Presented

PROCLAMATIONS:**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****SCHEDULED APPEARANCES:****20121127 Scheduled Appearance - Mr. David Cook**

Mr. David Cook to speak to Council regarding "Roswell Streetscape Project."

Present

20121054 Scheduled Appearance - Dr. Ernest L. Easley

Dr. Ernest L. Easley, senior pastor of the Roswell Street Baptist Church, to discuss Public Works Project.

Present

UNSCHEDULED APPEARANCES:**CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

Mayor Pro tem, Grif Chalfant, called upon Council member Johnny Sinclair, to preside over this portion of the meeting. Council member Sinclair briefly explained the consent agenda process.

A motion was made by Council member Goldstein, seconded by Council member Lewis, to suspend the rules of order and add two (2) items to the consent agenda. Agenda item 20121142 Motion to authorize the acquisition of property located at 310/312 Roselane Street, 314 Roselane Street, 316 Roselane Street, 318 Roselane Street, 320 Roselane Street, 324 Roselane Street owned by Christopher James Murray, Rebecca Elizabeth Murray and Philip Murray on behalf of the City of Marietta by means of eminent domain and agenda item 20121143 Motion to authorize the acquisition of property located at 1982 Delk Industrial Blvd owned by Franklin Forest Investors, LLC on behalf of the City of Marietta by means of eminent domain. Additionally, agenda item 20121042 duplicated on page 13 and agenda item 20121043 duplicated on page 14 would be deleted from the agenda.

The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

-under Ordinances: Agenda item 20120982 was added to the consent agenda. Agenda item 20120983 was added to the consent agenda and amended to approve the rezoning request with variances granted as conditions of zoning for the current developed property only, and shall be discontinued should the existing buildings be expanded, extended or enlarged in any manner which increase their non-conformity. Agenda item 20121056 remains on the consent agenda and amended to approve the rezoning request to OI (Office Institutional) with variances granted as conditions of zoning for the current developed property only, and shall be discontinued should the existing buildings be expanded, extended or enlarged in any manner which increases their non-conformity.

-under Parks and Rec: Agenda item 20121073 remains on the consent agenda and amended to read, "Motion to approve the modifications of the design plans for Merritt Park and to appropriate a portion of the designated 2009 Park Bond funding for Merritt Park in the amount of \$63,000 to complete park renovations." Agenda item 20121128 remains on the consent agenda showing Council member Morris abstaining.

-under Public Works: Agenda item 20121042 remains on the consent agenda showing Council member Sinclair voting against. Agenda item 20121040 remains on the consent agenda showing Council member Goldstein abstaining. Agenda item 20121139 was added to the consent agenda.

-under Other Business: Agenda items 20121140 and 20121141 were added to the consent agenda

City Attorney Douglas Haynie opened the public hearing for those items on the consent agenda requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.

A motion was made by Council member King, seconded by Council member Coleman, to approve the consent agenda as modified. The motion carried by the following vote:

Vote: 7 - 0 - 0

Approved

with the following exceptions:

Council member Goldstein abstaining on agenda item 20121040.

Council member Sinclair voting against agenda item 20121042.

Council member Morris abstaining on agenda item 20121128.

20121124

774 Roswell Street - Roswell Street Baptist Church

777/779 Roswell Street - Roswell Street Baptist Church

817 Roswell Street - Roswell Street Baptist Church

848 Roswell Street - Roswell Street Baptist Church

900 Roswell Street - Roswell Street Baptist Church

Motion to authorize the acquisition of property owned by Roswell Street Baptist Church on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such

property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

No Action Taken

20121125

Motion directing the City Attorney, City Manager and Director of Public Works to conduct discussions and mediations between the City of Marietta and the Roswell Street Baptist Church in order to seek a settlement between the parties which will allow the city to purchase and exchange the necessary property from the church in order to complete a project known as Roswell Street Improvements - Victory Drive to Cobb Parkway.

Discussion was held regarding mediations between the City of Marietta and the Roswell Street Baptist Church in order to seek a settlement. There was general agreement that a committee should be formed to participate in mediations.

Motion directing the City Attorney, City Manager and Director of Public Works, along with Mayor Tumlin, Jim King, Anthony Coleman and Philip M. Goldstein, to conduct discussions and mediations between the City of Marietta and the Roswell Street Baptist Church in order to seek a settlement between the parties which will allow the city to purchase and exchange the necessary property from or with the church in order to complete a project known as Roswell Street Improvements - Victory Drive to Cobb Parkway.

The motion was made by Council member Goldstein, seconded by Council member Sinclair, that this matter be Approved. The motion carried by the following vote:

Vote: 7 - 0 - 0**Approved as Amended**

MINUTES:

* **20121091 Regular Meeting - October 10, 2012**

Review and approval of the October 10, 2012 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0**Approved**

MAYOR'S APPOINTMENTS:

CITY COUNCIL APPOINTMENTS:

* **20121138 Planning Commission Appointment**

Appointment of Sam Storey, Jr., to the Planning Commission (Ward 3), for a three year term expiring November 14, 2015.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

ORDINANCES:

* **20120982 Z2012-09 Garvis Sams 1690 Cobb Parkway South**

Ord 7616

Z2012-09 [REZONING] GARVIS SAMS requests rezoning for property located in Land Lot 07110, District 17, Parcel 0300, 2nd Section, Marietta, Cobb County, Georgia and being known as 1690 Cobb Parkway South from LI (Light Industrial) to CRC (Community Retail Commercial). Ward 1.

Motion to approve the rezoning request with variances granted as conditions of zoning for the current developed property only, and shall be discontinued should the existing buildings be expanded, extended or enlarged in any manner which increase their non-conformity; or should the existing buildings be rebuilt, altered or repaired to an extent that the limitations established in Section 706.03, Continuation of a nonconforming building or structure, are met or exceeded.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved as Amended

* **20120983 Z2012-10 Thomas E. Divine, Jr. 1749 Canton Road**

Ord 7617

Z2012-10 [REZONING] THOMAS E. DIVINE, JR. requests rezoning for property located in Land Lot 08040, District 16, Parcel 0130, 2nd Section, Marietta, Cobb County, Georgia and being known as 1749 Canton Road from CRC (Community Retail Commercial) to LI (Light Industrial). Ward 6.

Motion to approve the rezoning request with variances granted as conditions of zoning for the current developed property only, and shall be discontinued should the existing buildings be expanded, extended or enlarged in any manner which increase their non-conformity; or should the existing buildings be rebuilt, altered or repaired to an extent that the limitations established in Section 706.03, Continuation of a nonconforming building or structure, are met or exceeded.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved as Amended

* **20120994 Z2012-11 City of Marietta 1004 Roswell Street**

Ord 7618

Z2012-11 [REZONING] CITY OF MARIETTA requests rezoning for property located in Land Lot 12370, District 16, Parcel 0090, 2nd Section, Marietta, Cobb County, Georgia and being known as 1004 Roswell Street from CRC/OI (Community Retail Commercial/Office Institutional) to CRC (Community Retail Commercial). Ward 7.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20121056**

Z2012-12 City of Marietta 320 and 340 Lockheed Avenue

[Ord 7615](#)

Z2012-12 [REZONING] CITY OF MARIETTA requests assigning zoning for property located in Land Lot 05040, District 17, 2nd Section, Marietta, Cobb County, Georgia and being known as unimproved right of way located between 320 & 340 Lockheed Avenue to CRC (Community Retail Commercial). Ward 7.

See items 20120913 and 20121139 for items related to this matter.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20110790**

CA2012-09 Amendment to the Comprehensive Development Code regarding Tree Protection and Landscaping

[Ord 7614](#)

CA2012-09 [CODE AMENDMENT] Proposal to amend the Comprehensive Development Code of the City of Marietta Division 712.08 Tree Protection and Landscaping.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20120908**

CA2012-10 Amendment to the Comprehensive Development Code regarding Signs

[Ord 7613](#)

CA2012-10 [CODE AMENDMENT] Proposal to amend the Comprehensive Development Code of the City of Marietta Division 714 Signs, Paragraph 714.03 Signs exempt from permit regulations.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

20121088

REAPPORTIONMENT - FIRST READING

[Ord 7626](#)

Motion to approve the reapportionment map of the City of Marietta in accordance with O.C.G.A. § 36-35-3, et seq. and Section 3.3 of the Charter of the City of Marietta. This is the first reading following the first of two public hearings. The second public hearing and second reading will be held at the regular December 2012 meeting of the Mayor and Council for the City of Marietta.

PUBLIC HEARING HELD

City Attorney Doug Haynie presented information regarding the next steps in the process to amend the Charter related to the ward map. Mr. Haynie mentioned that this was the first of two public hearings, the second of which will be held during the December 2012 Council meeting.

Discussion was held.

The public hearing was opened for anyone wishing to speak regarding this matter. Seeing no one wishing to speak, the public hearing was closed.

A motion was made by Council member Sinclair, seconded by Council member Morris, that this matter be Approved. The motion carried by the following vote:

Vote: 6 - 1 - 0

Approved - First Reading

Voting Against: Jim King

RESOLUTIONS:

CITY ATTORNEY'S REPORT:

CITY MANAGER'S REPORT:

MAYOR'S REPORT:

COMMITTEE REPORTS:

1. Economic/Community Development: Grif Chalfant, Chairperson

*** 20121027 Administrative Plan Revision**

Approval of a Resolution authorizing the revisions to the Housing Choice Voucher Program Administrative Plan.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

2. Finance/Investment: Annette Lewis, Chairperson

*** 20120993 H.E.A.T. Grant Renewal**

[Ord 7612](#)

Approval of an Ordinance amending the fiscal year 2012 Grant Fund to receive and appropriate a grant from the Georgia Governor's Office of Highway Safety for \$115,100.00 renewing the H.E.A.T. grant.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

- * **20121026** **Proposed Section 218 Agreement**
- Resolution to request authorization of the proposed referendum to enter a Section 218 Agreement with the State of Georgia for purposes of obtaining Hospital Insurance Only (Medicare) coverage for specified employees.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0** **Approved**
-
- * **20121029** **Target Corporation Grant**
- [Ord 7619](#) Approval of an Ordinance amending the fiscal year 2012 Grant Fund to receive and appropriate a grant from the Target Corporation for \$2000.00 to purchase a trailer for the Police Athletic League (P.A.L.).
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0** **Approved**
-
- * **20121053** **GMA Annual Mayors' Day Conference**
- Motion approving travel and training expenses for the Mayor and Council members who wish to attend the Georgia Municipal Association (GMA) Annual Mayors' Day Conference, January 26-28, 2013 in Atlanta, Georgia.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0** **Approved**
-
- 3. Judicial/Legislative: Philip M. Goldstein, Chairperson**
-
- * **20120881** **Vision Statement**
- Motion approving the revised implementation portion of the city's Vision Statement.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0** **Approved**
-
- * **20121025** **2013 Legislative Agenda**
- Motion approving the City of Marietta's proposed 2013 Legislative Agenda to the Georgia State Legislature.
- This Matter was Approved on the Consent Agenda.**
- Vote: 7 - 0 – 0** **Approved**

* **20121058 2013 City Council Meeting Dates**

Approval of a Resolution establishing the City Council meeting dates and approval of the committee meeting calendar for 2013.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20121062 Adopt 5-Year Short Term Work Program Update**

Approval of a Resolution to adopt the City of Marietta's 5-year Short Term Work Program 2012 Update to the Comprehensive Plan 2006-2030.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20121063 Livable Centers Initiative Grant**

Motion approving a corridor study grant for Cobb Parkway (US 41) from Frey's Gin Road to Canton Road.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20121057 155 Montgomery Street**

Motion to revise the stipulations originally approved as conditions of zoning for zoning case #Z2011-09 (20110516) dated August 10, 2011. This revision will eliminate stipulation #6, which read: "The houses will be LEED [Leadership in Energy and Environmental Design] certified."

All other previous conditions will remain in effect for the four (4) lot development, previously identified as 155 Montgomery Street, but now subdivided into lots identified as 155 Montgomery Street, 165 Montgomery Street, 77 Harold Street and 87 Harold Street. The following shall constitute the revised list of stipulations that are in effect for this development.

1. The existing 8 ft. white picket privacy fence currently located along a portion of the western (Drake/Panetta) property line will be extended along the entire western property line to the right of way of Montgomery Street. A new 8 ft. white picket privacy fence, which will match the fence that currently runs along the western (Drake/Panetta) property line, shall be constructed along the entire northern (Yustat/Drake) property line to the right of way of Harold Street.
2. Applicant will meet with Public Works staff to determine if a

retention/detention pond is necessary. If deemed necessary, it will be located away from the northwestern corner of the property, if possible. If changes need to occur, this matter will be discussed between the Mr. Drake, Yustats, Mr. Panetta, and the City of Marietta Public Works Departments. However, compliance with all City and State regulations is required.

3. The garages will be in compliance with all City of Marietta codes; and each garage will have similar color and façade material as the principle structure.

4. One row of trees will be planted along the northern and western property lines. This buffer will consist of a single row of trees of a minimum of 2" caliber and will include crape myrtles and bald cypress trees. Due to the mix of tree species within the buffer, the city arborist will determine spacing requirements.

5. The developer will hire an arborist to determine the health of all remaining trees and the impact on the remaining trees from the proposed plans. The developer will follow the recommendation of the arborist as well as meet the current tree ordinance. The City Arborist shall review every tree 12 inches or greater, where there is no conflict with a new structure and the tree is determined to be healthy, and shall incorporate best practices for the tree save areas prior to and during land disturbance activities.

6. The houses will be constructed in compliance with all codes.

7. The houses that will be built will be one of the attached plans (see attached renderings):

- | | |
|----------------|------------------|
| a. Ansel | f. Emmerson |
| b. Henry David | g. Hayek House |
| c. Hudson | h. Gifford |
| d. Dillard | i. Hampton Roads |
| e. Watkins | |

8. The square footage of the homes will be a minimum of 1800 square feet.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson

*

20121073

Merritt Park Design Plans

Motion to approve the modifications of the design plans for Merritt Park and to appropriate a portion of the designated 2009 Park Bond funding for Merritt Park in the amount of \$52,460 to complete park renovations.

Motion to approve the modifications of the design plans for Merritt Park and to appropriate a portion of the designated 2009 Park Bond funding for Merritt Park in the amount of \$63,000 to complete park renovations.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0

Approved as Amended

* **20121128 Contract for Sale**

Motion to approve the Contract for Sale of property by Nancy Riddle Martin to the City of Marietta, Georgia, for property located at 298 Chicopee Drive and 302 Chicopee Drive for the amount of \$230,000 for the creation of a city park as requested by Council Member Johnny Sinclair.

Council member Morris disclosed that Nancy Dorsey, the real estate agent related to this matter, is his sister.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 1 Approved
Abstaining: Andy Morris

5. Personnel/Insurance: G. A. (Andy) Morris, Chairperson

6. Public Safety Committee: Anthony Coleman, Chairperson

* **20121055 Mutual Aid Agreement**

Motion authorizing the Mayor to sign a new Statewide Mutual Aid and Assistance Agreement in order to be eligible to receive FEMA funding for future natural or man-made disasters.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

7. Public Works Committee: Jim King, Chairperson

* **20121036 Receive and Appropriate Admin 6 Check**

[Ord 7611](#)

Approval of an Ordinance to amend the Fiscal Year 2013 General Fund budget to receive and appropriate \$8265 from Wells Fargo Home Mortgage for an Administrative Policy No. 6 project at 195 Wright Street.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20120909 Pickens Drive Extension**

Motion to rename Pickens Drive Extension to Pickens Industrial Drive.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20121042 GDOT Project Framework Agreement**

Motion to approve a Project Framework Agreement with GDOT for the Construction of an additional Westbound Right Turn Lane on South Marietta Parkway at Powder Springs Street.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 1 – 0 Approved
Voting Against: Johnny Sinclair

* **20121043 9 Cobb Parkway and 1017 Roswell Street**

Motion authorizing revision of right of way and easements acquired along property fronting 1017 Roswell Street and 9 Cobb Parkway as shown on the attached agreement and stipulations.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20121046 Whitlock Heights Subdivision Speed Limit Reduction**

Motion to lower the posted speed limit to 25 MPH on Bouldercrest Drive, Banks Street, Woodvalley Drive, Wisteria Drive, Hemlock Drive, Holly Drive, Walnut Drive, Chinquapin Drive, Chestnut Drive, Redwood Drive, South Woodland Drive, North Woodland Drive, South Hillcrest Drive, North Hillcrest Drive, Whitlock Drive and Northcutt Street.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20121040 Speed Hump Policy**

Motion to approve revised Speed Hump Policy dated November 13, 2012.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 1 Approved
Abstaining: Philip M. Goldstein

* **20121139 Closing and abandonment of unimproved right-of-way**

Public Hearing on whether or not to close and abandon the unimproved right-of-way between 320 and 340 Lockheed Avenue.

PUBLIC HEARING HELD

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20120913**

Request to acquire unimproved right-of-way

Motion authorizing the sale of Tract 1 and Tract 2 of the former Lockheed Avenue to Lloyd Nawrocki for \$6,089.00.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

APPEARANCES:

OTHER BUSINESS:

20121021

V2012-43 Erik Juliano 150 Cobb Parkway South

V2012-43 [VARIANCE] ERIC JULIANO (SAM'S CLUB) request variances for property located in Land Lot 12380, District 16, parcel 0210 and being known as 150 Cobb Parkway South.

1. Variance to reduce the site density factor from 200.5 to 25. §712.08(D)(4)
2. Variance to allow more than 12 parking spaces in a row without a planter island. §712.08(G)(1)
3. Variance to reduce the width of the planted border area from 10' to 4' along Cobb Parkway South. §712.08(G)(2)(a) TABLE G-1
4. Variance to reduce the width of the planted border area from 10' to 0' along Trade Center Parkway. §712.08(G)(2)(a) TABLE G-1
5. Variance to increase the allowable impervious surface coverage from 80% to 84%. §708.16(H)
6. Variance to eliminate the required 8' sidewalk and 6' planting bed along the length of the building along any façade featuring a customer entrance. §708.16 (B)(45)(1)
7. Variance to reduce the required 8' sidewalk for the existing 5' sidewalk along Trade Center Parkway. §708.16 (B)(45)(7)
8. Variance to reduce the required 8' sidewalk for the existing 6' sidewalk along Cobb Parkway South. §708.16 (B)(45)(7)
9. Variance to waive the requirement that continuous internal pedestrian walkways, no less than 8' in width, be provided from the public sidewalk to the principal customer entrance. §708.16 (B)(45)(8)

Except as specifically provided herein, this approval does not waive or reduce the obligations of the applicant to comply with all other codes, ordinances and laws of the City of Marietta.

Zoning Manager, Rusty Roth, presented information regarding the variance request. Mr. Roth also summarized the criteria for which variance requests should be considered.

Erik Juliano, representing the applicant, presented additional information and explained the reason the request.

Discussion was held regarding the requested variances, as well as the proposed location and type of trees that would be planted.

Staff was asked to work with the applicant and bring back a more detailed plan. This matter was tabled until to a special called meeting later this month.

A motion was made by Council member King, seconded by Council member Goldstein, that this matter be Tabled. The motion carried by the following vote:

Vote: 7 - 0 - 0

Tabled

Council member Goldstein left the Council Chamber prior to the discussion regarding agenda item 20121031, Starbucks Corp 30 Whitlock Avenue.

20121031

V2012-44 Starbucks Corp 30 Whitlock Avenue

V2012-44 [VARIANCE] STARBUCKS CORPORATION requests variances on behalf of itself or its assigns as tenant for the property located in Land Lot 1218, District 16, Parcels 23 & 27 and being known as 30 Whitlock Avenue. Ward 5.

1. Variance to allow an accessory structure to be located closer to the right of way than the principal building. §708.16(F)(1)
2. Variance to reduce the rear setback for an accessory structure from 10' to 3.' §708.16(F)(1)
3. Variance to reduce the rear yard setback for the principal building from 35' to 13.' §708.16(H)
4. Variance to increase the allowable impervious surface coverage from 80% to 85%. §708.16(H)
5. Variance to increase the allowable number of parking spaces in a row without a planter island from 12' to 15.' §712.08(G)(1)
6. Variance to reduce the required number of street trees along Whitlock Avenue from 6 to 4. §712.08(G)(2)(a) TABLE G-1
7. Variance to reduce the width of the planted border along Whitlock Avenue and North Marietta Parkway from 10' to 3.' §712.08(G)(2)(a) TABLE G-1

These variances are hereby approved only for the tenant, operating as Starbucks. Except as specifically provided herein, this approval does not waive or reduce the obligations of the applicant to comply with all other codes, ordinances and laws of the City of Marietta.

This is to disclose that JRG Whitlock Ave, LLC is owned by Joseph Goldstein, Councilman Goldstein's son. Starbucks Corporation is a potential tenant for the property under a proposed lease from JRG Whitlock Ave, LLC. Councilman Goldstein will not participate in the matter in his official capacity as a Marietta City Councilman.

Zoning Manager, Rusty Roth, presented additional information regarding the variance request. Mr. Roth summarized the criteria for which variance requests should be considered.

Discussion was held regarding the letter of stipulations from the applicant dated November 14, 2012.

Motion to approve the variance request as submitted, with the following additional items:

- The letter of stipulations dated November 14, 2012 from Parks F. Huff shall be incorporated as a condition of granting the requested variances.*
- Starbucks, or its assignee, shall file a certification annually with the City of Marietta Development Services Department certifying that the lease remains in effect; and any and all variances granted shall terminate upon the expiration of the lease herein.*
- This property is within the Downtown Utility District and Starbucks agrees to comply with those district regulations.*
- The portion of the City-owned property located adjacent to the northernmost exit onto South Marietta Parkway shall be painted to indicate that it is not part of the driveway.*

The applicant agreed to the additional conditions.

The motion was made by Council member Coleman, seconded by Council member Sinclair, that this matter be Approved as Amended. The motion carried by the following vote:

Vote: 6 - 0 - 0 Approved as Amended
Absent for the vote: Council member Goldstein

* **20121140**

141 Lacy Street

Motion authorizing acquisition of the property at 141 Lacy Street from Roselane Professional Group, LLC for the purpose of constructing the Kennesaw Mountain to Chattahoochee River Trail - North & In-town Section in exchange for \$46,900.00 and is inclusive of site improvements to include the removal of the existing chain link fence. Any fence reinstalled will have to meet current City Code at time installed.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

* **20121141 1990 Delk Industrial Blvd**

Motion authorizing accepting the donation of the required Permanent Drainage easement and Temporary Construction easement with stipulations as follows at 1990 Delk Industrial Blvd from Cobalt Industrial REIT for the purpose of constructing the Delk Industrial Boulevard Storm Drainage Improvement Project.

1. The City shall cooperate with Grantor to ensure that the construction schedule meets the needs of each Tenant's business with regard to access, deliveries and loading;
2. not interfere with the Tenants' day-to-day business operations;
3. ensure that access to and use of the building, dock doors, truck court and all parking areas located on Grantor's property remains open and unobstructed;
4. provide Grantor with the direct telephone number of the City Representative and the Project Representative;
5. provide Grantor with the direct telephone number of a contact who can take phone calls within 2 hours of construction completion for each day construction occurs, which Grantor will provide to each Tenant, and cause such contact to promptly take all steps necessary to address any concerns raised by any Tenant with respect to access to Grantor's buildings and/or other interference with such Tenant's business;
6. notify each Tenant prior to commencing any activity that could limit access to the building, dock doors, truck court or parking lots and cooperate with any Tenant whose delivery and/or loading schedule will be affected in order to accommodate such schedule;
7. cause the Project Manager to provide an available onsite meeting time for each Tenant and Owner Representative at the start and end of each day during which Construction Activities will take place on subject property at 1990 Delk Industrial Blvd; and
8. leave the Temporary Construction Tract and surrounding areas clean and free of equipment and materials at the end of each day.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20121142 310/312 Roselane Street
314 Roselane Street
316 Roselane Street
318 Roselane Street
320 Roselane Street
324 Roselane Street**

Motion to authorize the acquisition of property owned by Christopher James Murray, Rebecca Elizabeth Murray and Philip Murray on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is

hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20121143**

1982 Delk Industrial Blvd.

Motion to authorize the acquisition of property owned by Franklin Forest Investors, LLC on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

* **20121092**

BLW Actions of the November 12, 2012

Review and approval of the November 12, 2012 actions and minutes of the Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

UNSCHEDULED APPEARANCES:

ADJOURNMENT:

The meeting was adjourned at 9:19 p.m.

Date Approved: December 12, 2012

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk